IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO.676 OF 1990

The State of Maharashtra ...Appellant

vs.

1.Sanjay Narayan Tikone
2.Baby Narayan Tikone
3.Sandhya Maruti Shinde ...Respondents

Mr.S.V.More, A.P.P. for the Appellant-State
Mr.Prakash Naik for the Respondents

CORAM: A.S.OKA,J.
DATE : DECEMBER 11,2006.

ORAL JUDGMENT:

1. This Appeal has been preferred by the State for enhancement of sentence. By a Judgment and Order dated 30th June 1990, the learned Assistant Sessions Judge, Pune acquitted the accused Nos.3 and 4 of all the offences alleged against them. By the same Judgment the accused Nos.1,2 and 5 were acquitted of the offence under sections 304-B read with section 34 of the Indian Penal Code (hereinafter referred to as the Penal Code). The accused Nos.1,2 and 5 were convicted for offences under section 306 and 498-A read with section 34 of the Penal Code. For the offence under section 306 read with section 34 of the Penal Code, they were sentenced to suffer R.I. for one year and to pay a fine of Rs.500/-. The same was the sentence awarded for the offence under section 498-A read with section 34 of the Penal Code.

2. The record of the Criminal Revision Application No.140 of 2006 is placed before this Court. It appears from the said Revision Application that the aforesaid order of conviction was challenged by the accused Nos.1,2 and 5 by preferring a Criminal Appeal No.96 of 1990 in the Sessions Court. By a judgment and Order dated 19th December 2005, the learned Ad hoc 5th Additional Sessions Judge, Pune partly allowed the Appeal. The learned Judge acquitted the accused Nos.2 and 5 for both the offences under sections 306 and 498-A read with section 34 of the Penal Code. However, the order of conviction and sentence of the accused No.1 was confirmed and the appeal was dismissed in so far as accused No.1 is concerned.

3. Criminal Revision Application no.140 of 2006 was filed by the accused No.1 for challenging the conviction and sentence. The record shows that by a Judgment and Order dated 28th June 2006, the said Revision Application was partly allowed. The order of conviction of the accused No.1 was maintained. However, the sentence of the accused No.1 was reduced to nine months from one year as it was found that the accused No.1 has already undergone the said sentence.

4. As a result of acquittal of the accused Nos.2 and 5 by the Sessions Court in the Appeal, this Appeal for enhancement of the sentence imposed by the Trial Court will not survive as

far as accused Nos.2 and 5 are concerned. In so far as accused No.1 is concerned, the conviction was confirmed by this Court in a Revision Application No.140 of 2006. However, the substantive sentence was reduced to nine months. Considering the decision of this Court in the Revision Application, it is obvious that the prayer for enhancement of the sentence of the accused No.1 cannot be considered.

5. Hence, this Appeal for enhancement of the sentence does not survive and the same is disposed of. Papers of the disposed of Revision Application No.140 of 2006 be sent to the appropriate Department.

JUDGE